

House Resolution

No. 20

Introduced by Assembly Member Portantino

August 15, 2011

House Resolution No. 20—Relative to the Standing Rules of the Assembly for the 2011–12 Regular Session.

1 *Resolved by the Assembly of the State of California, That the*
2 Standing Rules of the Assembly for the 2011–12 Regular Session
3 are amended as follows:

4 First—That Rule 11.3 is amended to read:

5
6 Open Meetings
7

8 11.3. (a) Except as otherwise provided in this rule, all meetings
9 of the Assembly or a committee thereof shall be open and public,
10 and all persons shall be permitted to attend the meetings. As used
11 in this rule, “meeting” means a gathering of a quorum of the
12 Members of the Assembly or a committee in one place for the
13 purpose of *establishing or changing member budgets, leadership*
14 *office budgets, caucus and committee budgets, or any expenditure*
15 *of funds that are made from moneys appropriated in the Budget*
16 *Bill under Item 0120-011-0001*, or discussing legislative or other
17 official matters within the jurisdiction of the Assembly or
18 committee. As used in this rule, “committee” includes *the*
19 *Committee on Rules*, a standing committee, joint committee,
20 conference committee, subcommittee, select committee, special
21 committee, research committee, or any similar body.

22 (b) Any meeting that is required to be open and public pursuant
23 to this rule, including any closed session held pursuant to

1 subdivision (c), may be held only after full and timely notice to
2 the public as provided by the Joint Rules of the Assembly and
3 Senate.

4 (c) The Assembly or a committee thereof may hold a closed
5 session solely for any of the following purposes:

6 (1) To consider the appointment, employment, evaluation of
7 performance, or dismissal of a public officer or employee, to
8 consider or hear complaints or charges brought against a Member
9 of the Legislature or other public officer or employee, or to
10 establish the classification or compensation of an employee of the
11 Assembly.

12 (2) To consider matters affecting the safety and security of
13 Members of the Legislature or its employees, or the safety and
14 security of any buildings and grounds used by the Legislature.

15 (3) To confer with, or receive advice from, its legal counsel
16 regarding pending or reasonably anticipated litigation, or whether
17 to initiate litigation, when discussion in open session would not
18 protect the interests of the Assembly or committee regarding the
19 litigation.

20 (d) A caucus of the Members of the Assembly that is composed
21 of members of the same political party may meet in closed session.

22 (e) A closed session may be held pursuant to paragraph (3) of
23 subdivision (c) under any of the following circumstances:

24 (1) An adjudicatory proceeding before a court, administrative
25 body exercising its adjudicatory authority, hearing officer, or
26 arbitrator, to which the Assembly or a committee, Member, or
27 employee thereof is a party, has been initiated formally.

28 (2) Based on existing facts and circumstances, a point has been
29 reached where, in the opinion of the Assembly or a committee
30 thereof, on the advice of its legal counsel, litigation against the
31 Assembly or a committee, Member, or employee thereof is
32 reasonably anticipated.

33 (3) Based on existing facts and circumstances, the Assembly or
34 a committee thereof has decided to initiate, or is deciding whether
35 to initiate, litigation.

36 (4) To confer with, or receive advice from, its legal counsel and
37 negotiator prior to the purchase, sale, exchange, or lease of real
38 property by or for the Assembly or a committee thereof regarding
39 the price and terms of payment for the purchase, sale, exchange,
40 or lease.

1 (f) Prior to holding a closed session pursuant to paragraph (3)
2 of subdivision (c), the presiding officer of the Assembly or the
3 chair of the committee, as appropriate, shall state publicly which
4 paragraph of subdivision (e) is applicable. If the closed session is
5 held pursuant to paragraph (1) of subdivision (e), the presiding
6 officer or chair shall state the title of or otherwise specifically
7 identify the litigation to be discussed, unless the presiding officer
8 or chair states that to do so would jeopardize the ability to
9 effectuate service of process upon one or more unserved parties,
10 or that to do so would jeopardize the ability of the Assembly or
11 the committee to conclude existing settlement negotiations to its
12 advantage. If the closed session is held pursuant to paragraph (4)
13 of subdivision (e), the notice of the closed session shall identify
14 the real property that the negotiations may concern and the person
15 with whom the negotiations may take place.

16 (g) The legal counsel for the Assembly or the committee shall
17 prepare and submit to the Assembly or the committee a
18 memorandum stating the specific reasons and legal authority for
19 the closed session. If the closed session is held pursuant to
20 paragraph (1) of subdivision (e), the memorandum shall include
21 the title of or other identification of the litigation. If the closed
22 session is held pursuant to paragraph (2), (3), or (4) of subdivision
23 (e), the memorandum shall set forth the existing facts and
24 circumstances on which the closed session is based. The legal
25 counsel shall submit the memorandum to the Assembly or the
26 committee prior to the closed session, if feasible, or, in any case,
27 not later than one week after the closed session. The memorandum
28 is exempt from disclosure under the Legislative Open Records Act
29 contained in Article 3.5 (commencing with Section 9070) of
30 Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government
31 Code.

32 (h) For purposes of paragraph (3) of subdivision (c), “litigation”
33 includes any adjudicatory proceeding, including eminent domain,
34 before a court, administrative body exercising its adjudicatory
35 authority, hearing officer, or arbitrator.

36 (i) For purposes of this rule, all expressions of the lawyer-client
37 privilege other than those provided in this rule are hereby
38 abrogated. This rule is the exclusive expression of the lawyer-client
39 privilege for the purposes of conducting closed-session meetings
40 pursuant to this rule.

(j) Disclosure of a memorandum required under this rule shall not be deemed a waiver of the lawyer-client privilege provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

Second—That Rule 14 is amended to read:

Powers of the Committee on Rules

14. (a) The Committee on Rules has the following powers:

(1) *To establish in an open public meeting an annual operational budget for the support of each legislative district in the same or equal amount for each Member of the Assembly.*

(2) *To establish in an open public meeting an annual operational budget for the support of each of the following:*

(A) *The Committee on Rules, including Accounting, Benefits, Facilities Management, Fiscal Office, Payroll, and Purchasing.*

(B) *Each legislative standing committee, subcommittee, select committee, special committee, joint committee, investigative committee, or other committee funded by the Assembly.*

(C) *The Democratic Caucus and the Democratic or Speaker's Office of Member Services; the Republican Caucus, the Republican Office of Policy, and the Republican Office of Member Services.*

(D) *All other caucuses.*

(E) *Each leadership office.*

(F) *The Office of the Chief Clerk.*

(G) *Other services for the Assembly, including, but not limited to, Engrossing and Enrolling, Basement Garage, Mail Services, Sergeant at Arms, Telecommunications, Travel Office, Vehicle Maintenance, and the Offices on Reprographics.*

(3) *To have general direction over the rooms assigned for the use of the Assembly, including the rooms for use by Members of the Assembly as individual offices.*

~~(1)~~

(4) To refer each bill and resolution to a committee, as provided by these rules.

~~(2)~~

(5) To appoint all employees of the Assembly not otherwise provided for by statute. It has authority to terminate, to discipline, to establish, and to modify the terms and conditions of employment

1 of, or to suspend, with or without pay, any employee of the
2 Assembly.

3 ~~(3)~~

4 (6) To make studies and recommendations designed to promote,
5 improve, and expedite the business and procedure of the Assembly
6 and of the committees thereof, and to propose any amendments to
7 the Rules deemed necessary to accomplish these purposes.

8 ~~(4)~~

9 (7) To adopt additional policies or requirements regarding the
10 use of cameras and other recording equipment at committee
11 hearings or Assembly floor sessions.

12 ~~(5)~~

13 (8) To contract with other agencies, public or private, as it deems
14 necessary for the rendition and affording of those services,
15 facilities, studies, and reports to the committee that will best assist
16 it to carry out the purposes for which it is created.

17 ~~(6)~~

18 (9) To cooperate with and secure the cooperation of county,
19 city, city and county, and other local law enforcement agencies in
20 investigating any matter within the scope of these rules and to
21 direct the sheriff of any county to serve subpoenas, orders, and
22 other process issued by the committee.

23 ~~(7)~~

24 (10) To report its findings and recommendations to the
25 Legislature and to the people from time to time and at any time.

26 ~~(8)~~

27 (11) To do any and all other things necessary or convenient to
28 enable it fully and adequately to exercise its powers, perform its
29 duties, and accomplish the objects and purposes of these rules.

30 ~~(9)~~

31 (12) To make available to the Assembly, or to any Assembly
32 or joint committee, or to any Member of the Assembly assistance
33 in connection with the duties of the committee or other legislative
34 matters as the personnel under direction of the committee or its
35 other facilities permit.

36 ~~(10)~~

37 (13) To make available to and furnish to the Assembly, and to
38 Assembly investigating committees created at this session and to
39 each of the members thereof, clerical, secretarial, and stenographic
40 help as may be reasonably necessary for the Assembly to carry

1 out its work, and for the committees and each of the members
2 thereof, to make and carry on the studies and investigations
3 required by or of them by the resolutions creating the committees,
4 and for these purposes to employ additional stenographic and
5 secretarial assistants as may be necessary, assign, reassign, and
6 discharge these assistants and prescribe amounts, times, and
7 methods of payment of their compensation. The committee shall
8 allocate annually an amount for the operation of each investigating
9 committee, which shall constitute the annual budget of the
10 committee.

11 (b) During the times as the Assembly is not in session, the
12 committee is authorized and directed to incur and pay expenses
13 of the Assembly not otherwise provided for that the committee
14 determines are reasonably necessary, including the repair,
15 alteration, improvement, and equipping of the Assembly Chamber
16 and the offices provided for the Assembly in the State Capitol and
17 the Capitol Annex.

18 (c) The committee shall allocate sufficient moneys from the
19 Assembly Operating Fund to support the Assembly's share of joint
20 operations.

21 (d) The Chairperson of the Committee on Rules shall appoint
22 a Chief Administrative Officer of the Assembly, subject to the
23 ratification of the Committee on Rules, who has duties relating to
24 the administrative, fiscal, and business affairs of the Assembly
25 that the committee shall prescribe. The Chairperson of the
26 Committee on Rules or a majority of the membership of the
27 Committee on Rules may terminate the services of the Chief
28 Administrative Officer at any time. Notwithstanding the foregoing,
29 the Speaker may appoint a temporary chief administrative officer
30 for up to 90 days following the beginning of the session.

31 (e) The Committee on Rules shall provide for the publication
32 of a compilation of the photographs of accredited press
33 representatives.

34 ~~(f) The Committee on Rules may delegate powers to the Speaker~~
35 ~~by a majority vote of the membership of the committee.~~

36 *(f) The Committee on Rules, each quarter of each legislative*
37 *year, shall make available to the public by posting on the*
38 *Assembly's Internet Web site all of the following information:*

39 *(1) The salary earned by each Member of the Assembly during*
40 *that legislative session and by that year to date.*

1 (2) *The amount of per diem claimed and paid to each Member*
2 *of the Assembly during that legislative session and by that year to*
3 *date.*

4 (3) *The current monthly salary earned by each individual*
5 *employed by the Assembly and the amount paid year to date.*

6 (4) *The name, the duration of the contract, the contract amount,*
7 *and the amount paid year to date for each contract of employment,*
8 *each consulting contract, and each personal service contract*
9 *entered into by a Member, a committee, or any other employee of*
10 *the Assembly acting in his or her official capacity with individuals,*
11 *corporations, companies, associations, or groups.*

12 (5) *All payments not covered in paragraphs (1) to (4), inclusive,*
13 *gifts, or donations made from funds allocated to the Assembly by*
14 *the Budget Bill or any other bill that aggregate more than \$1,000*
15 *in a session that are made to any of the following:*

16 (A) *A state agency.*

17 (B) *An individual.*

18 (C) *A corporation, group, association, or business entity.*

19 (6) *Each Member of the Assembly's legislative budget for the*
20 *legislative session by legislative year and by accounting quarter.*

21 (7) *Each Member of the Assembly's expenditures for the*
22 *legislative session, by legislative year and by accounting quarter.*

23 (8) *Payments made for or on behalf of a Member of the Assembly*
24 *or the Assembly to settle any legal claim, and payments made to*
25 *satisfy a judgment against a Member of the Assembly or the*
26 *Assembly in general.*

27 (9) *Payments made on or behalf of an employee of the Assembly*
28 *to settle a legal claim, and payments made to satisfy a judgment*
29 *against an employee of the Assembly.*

30 Third—That Rule 15.5 is amended to read:

31
32 Operating Fund Report
33

34 15.5. The Committee on Rules shall annually prepare a report
35 to the public of expenditures as required by Section 9131 of the
36 Government Code *and shall make that report available to the*
37 *public on the Assembly's Internet Web site.*

38 Fourth—That Rule 15.6 is amended to read:

Independent Audit of Operating Funds

15.6. The Committee on Rules shall ~~contract for an independent~~
request the Controller to conduct an audit of the revenues and
expenditures, for each fiscal year, from the Assembly Operating
Fund. ~~The organization performing the audit shall be selected by~~
~~a majority of the membership of the Committee on Rules. The~~
~~contract for the audit shall be awarded through a competitive~~
~~bidding procedure.~~ *Any Member, committee, caucus, or any other*
entity of the Assembly shall provide the Controller access to any
records that the Controller determines are needed in order to
conduct the audit. The audit shall be prepared in a manner and
form to be determined by the ~~organization performing the audit~~
Controller, and shall be consistent with generally accepted
accounting principles.

The audit shall be completed and made available to the public
within ~~180~~ 90 calendar days following the completion of the fiscal
year for which the audit is performed.

Fifth—that Rule 15.7 is amended to read:

Performance Audit

15.7. In addition to the annual financial audit required by Rule
15.6, the Committee on Rules shall ~~contract for~~ *request the*
Controller to conduct an audit of the administrative operations of
the Assembly. The administrative departments to be audited shall
be determined by ~~the Committee on Rules~~ *the Controller*. ~~An~~
~~organization performing an audit pursuant to this rule shall be~~
~~selected by a majority of the membership of the Committee on~~
~~Rules. A contract for an audit shall be awarded through a~~
~~competitive bidding procedure.~~ *Any Member, committee, caucus,*
or any other entity of the Assembly shall provide the Controller
access to any records that the Controller determines are needed
in order to conduct the audit. Audits shall be prepared in a manner
and form to be determined by the ~~organization performing the~~
~~audit~~ *Controller*, and shall be consistent with generally accepted
accounting principles.

All findings and recommendations reported by ~~an auditing firm~~
shall be a legislative record for purposes of Section 9072 of the
Government Code, and made available to Members, and to the

1 ~~public~~ shall be made available to the public on the Assembly's
2 Internet Web site.

3 Sixth—That Rule 18 is amended to read:

4
5 Expenditures

6
7 ~~18.—A member~~

8 18. The Assembly shall establish an equal operational budget
9 for the support of each legislative district per year. This budget
10 shall provide for the total expenses associated with staffing,
11 maintenance, and operational expenses for a district office or
12 offices and a Sacramento capitol office for each elected Member
13 of the Assembly who shall exercise discretion as to its expenditures.

14 Budget funds allocated to committees, caucuses, Assembly
15 officers, or other budgeted funds of the Assembly shall be used
16 only for that committee, caucus, Assembly officer, or other
17 budgeted fund, and only for the purpose for which it is intended.
18 These funds shall not be used for the staffing or other operational
19 support for any Member of the Assembly's district or capitol office.

20 A Member or committee of the Assembly may not incur any
21 expense except as authorized pursuant to these rules or the Joint
22 Rules of the Senate and Assembly, or as authorized by the
23 Assembly or the Committee on Rules.

24 The Committee on Rules shall provide, by rules and regulations,
25 for the manner of authorizing expenditures by Members,
26 committees, officers, and employees of the Assembly that are not
27 otherwise authorized by law, these rules, or the Joint Rules of the
28 Senate and Assembly. These rules and regulations shall incorporate
29 a provision whereby construction, alteration, improvement, repair,
30 or maintenance of real or personal property, and the purchase of
31 supplies and equipment, shall be governed by competitive bidding.
32 Further, the rules and regulations shall provide for the payment of
33 expenditures, as authorized by these rules and regulations, from
34 the Assembly Operating Fund upon certification of claims therefor
35 to the Controller by the Committee on Rules or its authorized
36 representative.

37 A Member of the Assembly may not be reimbursed for travel
38 outside the State of California without prior approval of the Speaker
39 or the Committee on Rules.

40 Seventh—That Rule 26 is amended to read:

IV. ASSEMBLY FUNCTIONS

A. Duties of Assembly Officers

Duties of the Speaker

26. (a) The Speaker possesses the powers and shall perform the duties prescribed as follows:

(1) To preserve order and decorum; he or she may speak to points of order in preference to the other Members, rising from his or her chair for that purpose.

(2) To decide all questions of order subject to appeal to the Assembly by any Member. On every appeal, the Speaker shall have the right to assign the reason for his or her decision.

(3) To name any Member to perform the duties of the Speaker, except that any substitution may not extend beyond adjournment.

(4) To have general direction over the Assembly chamber ~~and rooms set aside for the use of the Assembly, including the rooms for use by Members as private offices.~~

~~(5) To allocate funds, staffing, and other resources for the effective operation of the Assembly.~~

~~(6)~~

(5) To appoint the membership of all standing and special committees, including the Committee on Rules, and their respective chairpersons and vice chairpersons. The Speaker has approval power over the appointment of subcommittees of standing and special committees, except as otherwise provided in Rule 14.5. The Committee on Rules consists of the Chairperson, Vice Chairperson, and other Members who shall be appointed by the Speaker in accordance with the process for appointing the membership of standing committees pursuant to this rule. Two alternate members of the Committee on Rules shall be appointed in accordance with the process for appointing members to the Committee on Rules. Members and alternates so appointed shall remain in office until their successors are selected as provided for in these rules. The Speaker may designate any member in lieu of or in addition to the alternate member to fill a temporary vacancy. An alternate member may serve when a committee member is absent.

~~(7)~~

1 (6) To establish a schedule of meetings of standing committees
2 or subcommittees and to approve special meetings at a time
3 different from the scheduled time.

4 ~~(8)~~

5 (7) To have general control and direction over the Journals,
6 papers, and bills of the Assembly and to establish a procedure in
7 accordance with Assembly Rule 118 for admitting employees of
8 the Legislature to the Assembly Chambers, including the lobby in
9 the rear of the chambers and any hallway or area of the floor that
10 is adjacent to the desks occupied by the assistants to the Chief
11 Clerk.

12 ~~(9)~~

13 (8) To act as Chairperson of the Committee of the Whole.

14 ~~(10)~~

15 (9) To order the Lobby and Gallery cleared whenever he or she
16 deems it necessary.

17 ~~(11)~~

18 (10) To authenticate by his or her signature, when necessary or
19 required by law, all bills, memorials, resolutions, orders,
20 proceedings, writs, warrants, and subpoenas issued by order of the
21 Assembly.

22 (b) The Speaker is an ex officio member of all Assembly and
23 joint committees with all of the rights and privileges of that
24 membership, except the right to vote. In counting a quorum of any
25 of those committees, the Speaker shall not be counted as a member.

26 (c) The Speaker shall, at each regular session, appoint a Member
27 of the Assembly to serve on the Judicial Council pursuant to
28 Section 6 of Article VI of the California Constitution.